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SUPREME COURT OF THE UNITED STATES.

No. 134.

THE UNITED STATES, APPELLANTS,

vs.

LUIS VIGNES.

APPEAL FROM THE DIST. COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. 342—*Luis Vignes, Claimant*, vs. *The United States, Defendant—for the place named "Temecula."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this thirteenth day of September, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Luis Vignes, for the place named "Temecula," was presented and ordered to be filed and docketed with No. 342, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept. 30th*, 1852.

In case No. 342, Luis Vignes, for the place named "Temecula," the deposition of Antonio Franco Coronel, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with documents marked M, N, O, P, and their translations annexed thereto, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *Sept. 21st*, 1853.

Case No. 342 called, submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *March 14th*, 1854.

In the same case, Commissioner Thompson Campbell delivered the opinion of the board rejecting the claim.

(Vide page 57 of this Transcript.)

SAN FRANCISCO, *March 14th*, 1854.

In the same case, Commissioner R. Aug'n Thompson delivered his opinion, dissenting.

(Vide page 63 of this Transcript.)

SAN FRANCISCO, *Aug't 15th*, 1854.

In the same case, on motion of the United States law agent, the following order was made, to wit:

(Vide page 77 of this Transcript.)

Petition.

To the Commissioners appointed to investigate and settle private land claims in the State of California:

Luis Vignes represents, that on the 14th day of December, 1844, Manuel Micheltoreno, then governor of California, acting under authority of the laws and regulations then in force, granted to Dn. Feliz Valdez a tract of land called Temecula, which lies within the limits of the present county of San Diego, embraced within certain definite boundaries, as explained in the diseño, and supposed to contain six leagues, more or less, which grant was regularly approved on the 12th of May, 1845, by the departmental assembly. All which will more fully appear on reference to the copy of the espediente and translation thereof, herewith filed and severally marked "A" and "B."

That on the 3d of June, 1845, judicial possession of said land was formally given to the grantee.

That on the 15th of June, 1846, Dn. Feliz Valdez, by his attorney, Dn. Juan Manzo, sold and conveyed the said tract of land to the petitioner.

That the petitioner knows of no other claim to any part of the land.

That, in support of his claim, he relies upon the papers herewith filed, and such other evidence as he may hereafter produce.

He prays the confirmation of his title.

A. P. CRITTENDEN,
Att'y for Dn. Luis Vignes.

Filed in office, Sept. 13, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Dn. Ygnacio del Valle.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, LOS ANGELES, *Sept.* 27, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, personally appeared Don Ygnacio del Valle, a witness produced in behalf of the claimant of the rancho of Temecula, Dn. Luis Vignes, in the case which is No. 342 on the docket of said commissioners, who, having been duly sworn, testified as follows:

The law agent having been notified and attending.

Question 1st. What is your name and age? Where do you reside? If in California, how long have you resided there?

Answer. My name is Ygnacio del Valle; I am forty-four years of age; I reside in Los Angeles, California, and have resided in California twenty-seven years.

Question 2nd. Are you acquainted with the signatures of Manuel Micheltoreno, Manuel Jimeno, Pio Pico, Feliz Valdez, Leonardo Cota, Juan Manzo and José R. Arguello? If yes, how did you become so?

Answer. I am acquainted with the signatures of all said persons, from having frequently seen them write and make their signatures.

Question third. Examine the document marked "Exhibit M," which is shown to you, and which contains the original grant to Dn. Feliz Valdez of the place called "Temecula," dated the 14th of December, 1844, and also a conveyance of the rancho of Temecula by Juan Manzo, as attorney of Don Feliz Valdez, to Luis Vignes, dated June 15th, 1846; and say whether or not the signatures of Manuel Micheltoreno and Manuel Jimeno, to the former, and those of Leornardo Cota and Juan Manzo, to the latter, are genuine.

I have examined said papers; the signatures referred to are genuine.

Question fourth. Examine the paper marked "Exhibit N," which is shown to you, being a letter dated March 25th, 1845, by Feliz Valdez to Juan L. Bignes, (St. Luis Vignes;) also the paper marked "Exhibit O," containing a copy, certified by Pio Pico, of the approval by the departmental assembly of the grant of Temecula to Don Feliz Valdez; also the paper marked "Exhibit P," containing the proceedings of José R. Arguello, 2d alcalde, as giving judicial possession of the rancho of Temecula to the attorney of Feliz Valdez, and say whether or not the signatures of Feliz Valdez to the first of said papers, of Pio Pico to the second, and of José R. Arguello to the third, are genuine.

Answer. I have examined the three papers referred to; the signatures mentioned are genuine.

YGNACIO DEL VALLE.

U. S. law agent present.

Sworn and subscribed before me, this 27th of September, 1852.

HARRY J. THORNTON,
Comm'r, &c.

Filed in office, Sept. 27, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Antonio Coronel.

OFFICE OF THE UNITED STATES LAND COMMISSION,
LOS ANGELES, *Sept. 30th*, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, personally appeared Antonio F. Coronel, a witness produced on behalf of the claimant of the rancho of Temecula, Don Luis Vignes, in the case of which is No. 342 on the docket of said commissioners, who, having been duly sworn, testified as follows:

Examination by the Claimant.

Question first. What is your name and age; where do you reside; if in California, how long have you resided there?

Answer. My name is Antonio F. Coronel; I am thirty-three years of age; I reside in Los Angeles, California, and have lived in California about eighteen years.

Question second. Do you know the rancho of Temecula; have you been upon it often?

Answer. I know where the rancho of Temecula is, and have been on it often. I was present in 1845 when judicial possession of Temecula was given to Don Feliz Valdez, and attended on that occasion for Don Luis Vignes, who was the agent of Don Luis Valdez.

Question third. In May and June, 1845, who was acting as second alcalde of San Diego?

Answer. Don José Ramon Arguello.

Question fourth. When was this rancho occupied; was there any house built upon it, and occupied by Don Feliz Valdez, or Don Luis Vignes; if yes, when; were any cattle ever put on the rancho by them; if so, at what time?

Answer. At the time judicial possession of Temecula was given, there was upon the rancho a large adobe house which had been built long before by the mission, and I believe abandoned. There were also some Indian huts. Don Luis Vignes afterwards built an adobe house upon the rancho, and had a corral there and cattle. This house was occupied by the mayordomo of Don Luis. It was built, I think, the same year that judicial possession was given. I do not know at what time the cattle were sent there. They were there, I know, in 1847.

Cross-examined by the Law Agent.

Question first. Is the rancho still occupied; are there persons living upon it, and cattle there?

Answer. Yes, I believe so.

A. F. CORONEL.

U. S. law agent present.

Sworn to and subscribed before me, this 30th of September, 1852.

HARRY J. THORNTON,
Comm'r, &c.

Filed in office, Sept. 30, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of Juan Manzo.

OFFICE OF THE U. S. LAND COMMISSIONERS,
LOS ANGELES, *October* 4, 1852.

On this day, before me, Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, personally appeared Don Juan Manzo, a witness produced on behalf of Don Luis Vignes, the claimant of the rancho of Temecula, in the case which is No. 342 on the docket of said commissioners, who, having been duly sworn, testified as follows:

The law agent was notified and attended.

Examined by the Claimant.

Question first. What is your name, age, and where do you reside? If in California, state how long you have resided there.

Answer. My name is Juan Manzo; I am thirty-eight years of age, and reside in Los Angeles; I have resided in California nine years.

Question second. Are you acquainted with the signatures of Don Feliz Valdez? If yes, examine the document marked N, on file as part of the deposition of Ygnacio del Valle, and say, whether the signature thereto purporting to be that of Feliz Valdez is genuine.

Answer. I am acquainted with the signature of Don Feliz Valdez; I have examined the document referred to; the signature of Feliz Valdez appearing there is genuine.

Question third. Examine the document marked Exhibit M, on file with the deposition of Ygnacio del Valle, and say, whether the conveyance therein contained was executed by you.

Answer. I have examined the document referred to; the deed therein to Don Luis Vignes was executed by me, as the agent or attorney in fact of Don Feliz Valdez.

Question fourth. Do you know anything of the payment, by Don Luis Vignes, of any money for the buildings or improvements on the rancho of Temecula?

Answer. The rancho of Temecula had belonged to the mission, and the mission had built an adobe house on it; when it was granted to Don Feliz Valdez it was required that he should pay the appraised value of the building to the mission. When judicial possession of the land was given, I was present; there was an appraisement of the building, and it was valued at three hundred and twenty-five dollars; there may have been some other trifling improvements on the place; the whole was valued at that; the amount of the valuation was paid during same year that it was made to Don Pio Pico, then governor for the mission; it was paid by Don Luis Vigne.

JUAN MANSO.

Sworn and subscribed before me,

HILAND HALL,
Comm., &c.

Filed in office, Oct. 4, 1852.

GEO. FISHER, *Sec'y*.

[1 S. D. K.] 1844.

Espediente promovido por el commandante de battallon, D'n Felis Valdez, en solicitud del parage conocido con el nombre de Temecula.

[2 S. D. K.] Sello Quinto, Un Real.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y cuatro, y mil ochocientos cuarenta y cinco.

MICHELTORENO.

[L. S.]

PABLO DE LA GUERRA,
Por Ans'a del Adm't,
GUILLO. EDO. HARTNELL.

E. S'r Gob'r:

Felis Valdez, commandante de b'n ej'to de la republica Mejicana, anto V. E. con el mas profundó respeto hace presente: Que habiendose informado de Don Joaq'n Ortega, adm'or de la mission de S. Luis Rey, si el rancho de Temecula perteneciente a la mencionada mission tenia algunos interes de ella, ó no para en el segundo caso solicitarlo el que suscribe á lo que contestó el referido Ortega, que podia francam'te solicitarlo compremetiendose ademus que año de sus yernos lebautaria el diseño respectivo y derigirlo al que espone para que hiciese la solicitara que deseaba, mas hoy con vastante asombro ve el q. suscribe E. S. que faltando á la buena fé el repitido Ortega ha solicitado para si a quel terreno aprovechandose de las atenciones se que ha estado occupado por el desempeño de mi deber militar, para no ocuparme de asuntos proprio, pero en virtud de lo espuesto y en atencion á mis dilatados servicios, asi como á los d'ros, y consiteracion que segun lo ley de colonization le corresponden al que represente esper de V. E. que en caso de que sea concesible el citado rancho de Temecula, se tenga presente segun cré de justicia. Por tanto, á V. E. suplica accedá á su solicitud en lo que recibera gracia.

Monterey, Augusto 25, de 1844.

[3 S. D. K.] FELIS VALDEZ.

MONTEREY, *Ag'to* 25, *de* 1844.

Agreguese al espediente en que piden igual terreno los S. S. Ortega y Stokes pa. q. en vista de los dos, se informe como esta prevenido en aquellas pr. decreto de hoy y practicadas el gob'r pueda resolver en justicia.

MICHELT'O.

El terreno nombrado Temecula, que solicita el Señor D. Felis Valdez, comandante de battallon del ejercito de la republica Mejicana, se halla enteramente valdio; terreno que igualmente han solicitado los Señores Ortega y Stokes, y *mott* teniendose premia, en que la pretendieron, tubo a bien esta comunidad en atencion á los servicios de ambos prefirilos á otro alguno en la ocupacion del mencionado parage, es cuanto puedo informar con toda sinceridad.

Mission de S'n Luis Rey, 26 de Sep're, de 1844.

[4 S. D. K.] F. JOSE MARIA DE ZALVADEA.

El parage conocido con el nombre de Temecula, que se solicita en la presente instancia, se halla antera'mt valdio y puede consederse al solicitante, es cuanto puedo informar sobre el particular en consecuencia al superior decreto que antecede.

Puerto de S. Diego, 30 dé Septembre, de 1844.

JUAN M. MARRON.

Ex'mo S'r Gobernador:

Ya que los Señores Ortega y Stokes desisten de su pretension del terreno de Temecula, queda solam'te en pié la solicitud de S'or Valdez,

y por los buenos informes que se ben en este espediente parese que el parage esta baldio, y en estado de poderse conceder, pero como pertenece a la mission de S. Luis Rey, y sabre este particular á dado un decreto la E. Asamblea departamental, á V. E. le corresponde lo que tubiere por conveniente.

Monterey, 18 de O'bre, de 1844.

[5 S. D. K.] MAN'L JIMENO.

MONTEREY, *Nov.* 13, *de* 1844.

Digo el S. S'rio del despacho, el avaluo prudencial de los fincas y bienes raices. MICHELTORENA.

Ex'mo S'or Gobernador:

Para que no halla amenor en el avaluo de las fincas y bienes raices, de Temecula, seria conveniente si á V. E. le parese bien, se nombren Dos Peritos, uno por parte del S'or Valdez, y otro por de la mision, para que estos den su opinion con presencia de dichas fincas, y con el resultado podra volver el espediente, por conducto del juez de la ciudad de Los Angeles, para que V. E. resulva lo q. tubiere por conveniente.

F'ha ut supra. MAN'L JIMENO.

F'ha ut. Conforme.

MICHELTORENA.

[6 S. D. K.] Ex'ma S'or Gobernador:

José Joaquin Ortega y Eduardo Stokes, vecinos de la municipalidad de S. Diego, en este departamento y Mejicanos, el primero por nacimiento, y el segundo por naturalizacion, ante V. E. en la mejor forma, y como mas haya lugar en derecho, nos presentamos diciendo, que no siendonos posible subsitio, con solo el muy limitado terreno de que, con anterioridad se nos ha hecho donacion en los terminos de estilo por su es casez de aqua y principalmente, para el riego de las labores que demanda la mantencion de muestras familias, solicitamos de la consideracion de ese gobierno el que sirva conceder á nuestros hijos minores de edad, Ant'o Ma. Ortega y Francisca Adolphe Stokes, seis sitios de ganado mayor, en el terreno conocido por el nombre de Temecula, perteneciente á la Mision de San Luis Rey, el que se halla enteramente baldio. Es colindante con el rancho de San Jacinto de la propiedad, de Don J. Ant'o Estudillo, con el de la saguna perteneciente á Don Julian Maurigue, y con las de labor de la espresada mision, todo conforme se demuestran por el diseño, que debidamente adjuritamos á V. E. para su sup'or conocimiento, suplicandole que haja poner en tramites lo mas pronto posible esta nuestra solicitud que con necessidad hacemos; y por tanto, á V. E. pedimos se digne acceder á ella coma que da solicitado, sirviendose dispensamos el uso del papel comun, por falta del sellado que corresponde.

[7 S. D. K.]

Juramos no ser de malicia, y lo necessario.

San Diego, Julio 18, 1844.

JOSE JOAQUIN ORTEGA,
EDUARDO STOKES.

MONTEREY, *Ag'to 25, de* 1844.

Ya forme el S. S'rio del despacho de este gob'o, tomando previamente el del M. R. P. ministro de la Mision de S. Gabriel, q. recibio la de S. Luis Rey y del juez de San Diego, por no poder lo dar los encargados de la ultima mencionado mision, y agregandose al espediente para tenerse presente cuando se vuelva, á este gob'o la solicitud, relativa á D. Feliz Valdez, decretada tambien en la f'ha.

MICHELTORENA.

Como dispone el ex'mo s'or gobernador, para la presed'ta con los documentos que la acompaña al R. P. Mi'tro de S'n Luis Rey y al juez de San Diego, pa. que informar sobre su contenido. F'ha la misma.

MAN'L JIMENO.

[*For map see original, page* 16.]

[9 S. D. K.] El parage de Temecula, que solicito en la presente instancia lo Señores Ortega y Stokes, se halla interamente valdio y no *reende* publica beneficiencia á esta mision, y atendiendo á los servicios que ambos han prestado á esta comunidad les cede con preferencia á otro, alguno la ocupacion de d'ho sitio y para que en vesta del presente informe pueda su excelencia decretar en fabor de las mencionados Ortega y Extoie. Es cuanto puedo manifestar á vuestra eccelencia en obsequio de la verdad.

FR. JOSE MARIA DE ZALVADEA.

Mision de San Luis Rey, 26th de Septiembre, de 1844.

El parage que soliciten en la presente instancia se haja interamente valdio y puede concederse á los interesados amas tienen los bienes suficientes para cubrirlo, es cuanto puedo informar, en consecuencia al superior decreto que antecede.

JUAN MA. MARRON.

San Diego, Septiembre 30, de 1844.

Ex'mo S'or Gobernador:

El ciudadano Joaquin Ortega, para si y á nombre de Dn. Eduardo Stokes, hacemos presente á V. E., que desistimos del derecho que podemos tener el parage de Temecula, pa. que pueda ocuparlo el S'or Dn. Feliz Baldez, siempre que V. E. tubiere á bien consedersele.

JOSE JOAQUIN ORTEGA.

Monterey, Octubre 20, de 1844.

Harvard College Library

[10 S. D. K.] El C. Manuel Micheltoreno, G'ral de Brigada del Ejercito Mejicana, Ayuntamiento, General de la Plana Mayor del mismo, Gobernador, &c.

Por cuanto el comandante de batallon, Dn. Feliz Valdez, ha pretendido para su beneficio personal y el de su familia el parage conocido con el nombre de Temecula, colindante al N. con el S'or Estudillo, al S. con Pala, al P. con Sta. Marguerita, y al S. E. con la Agua Caliente; practicadas previamente las diligencias, y averiguaciones concernientes, segun lo despuesto por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado declarandole la propiedad de el, por las presentes letras sugetandose á la aprobacion de la ex'ma asamblea departmental, y bajo las condiciones siguientes:

1a. No podrá venderlo, enagenarlo ni hipotécarlo, imponer censo, vinculo fianza, ni otro gravamen alguno.

2a. Podrá cercarlo sin perjudicar las travecias caminos, y servidumbres lo disfrutará libre, y esclusivamente destinandolo al uso ó cultivo que mas le acomode, por dentro de un año habitará la cara que se halla alli construida.

3a. Cuando se le confirme la propiedad solicitara del juez respectivo, que le dé la posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pon-
[11 S. D. K.] drá amas de sus mojoneras algunos arboles frutales, ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de seis sitios de ganado mayor, poco mas ó menos segun esplica el diseño respectivo. El juez que diere la posecion lo hará medir conforme á ordenanza, que dando el sobrante que resulte á la nacion para los usos combeniente.

5a. Si contraviniese á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero, se responda y se entregue al interesado para su resguardo y a demas fines.

Dado en Monterey, á catorce de D'bre, de 1844.

MANUEL MICHELTORENO,
MANUEL JIMENO, *S'rio.*

Queda tomado razon de este titulo en el libro respectivo á fojas 13, vuelta. JIMENO.

[12 S. D. K.]

Ex'mo S'or Gobernador:

El que suscribe en cumplimiento á lo acordado por la ex'ma asamblea departamental, en sesion del dia 3o del pasado, acompaño á V. E. respetuosam'te el espediente que se me devolvió y el documento q. acredito, el derecho con q. represento pa. solicitar lo aprobacion del terreno de Temecula.

Luega q. el honorable cuerpo y no de serciorado, suplico á V. E. se sirva devolvermelo pa. mi resguardo; y admitirme esta en papel comun pr. falta del sellado necessario en el lugar.

Angeles, *y* Mayo 3, de 1845. JN. L. VIGNES.

[13 S. D. K.]

SENOR: La commission de terrenos valdios ha visto y ecsaminado con todo el detenimiento posible el espediente formado sobre el terreno de Temecula, concedido al s'or command'te de batallon, Dn. Feliz Valdez, pr. titulo legalmente espedido pr. el gobierno de este departamento, con f'ha 14 de Diciembre, del año procsimo anterior, asi como tambien se ha impuesto de estar suficientimente legalisado el poder congo se presente el S'r D. Jn. L. Vignes pidiendo la aprovacion de la honorable asamblea, á la concesion del referido terreno pr. lo cual la comision se ha persuadido de qu. se han practicado todas las diligencias q. aparesen con total arreglo á lo qe. sobre el particular disponen las leyes, y q. fueron suficientes pa. concederle la propiedad de d'ho, terreno al nominado S'or Valdez. En tal virtud la comision, sugeta á la deliberacion de la respectable corporacion la proposicion seguiente: Si aprueba la concesion hecha en favor del ciudadano Feliz Valdez del parage nombrado Temecula, concedido en propiedad pr. el gobierno de este departamento, en titulo legalmente librado con f'ha catorce de Diciembre del año procsimo anterior de entera, conformidad con lo prevenido en la ley de 18 de Agosto, de 1824, y el articulo 5o del reglamento de veinte uno de Noviembre, de mil ochocientos veinte ocho.

[14 S. D. K.]

Angeles, Mayo de 8, 1845.

YGNACIO DEL VALLE,
NARCISO BOTELLO.

ANGELES, *Mayo* 12, *de* 1845.

En sesion de este dia, se aprobo por la honorable asamblea departamental la proposicion del dictamen, antecedente mandando se devuelva el espediente q. se presente al ex'mo señor gobernador, pa. las fines consiguientes.

PIO PICO, *Pres'te*,
AGUSTIN OLVERA, *S'cro*.

[15 S. D. K.]

ANGELES, *Mayo* 13, *de* 1845.

En vista de la aprobacion otorgada con fecha de ager por la ex'ma asamblea departmental. Librese testimonio de ella y de esto decreto á la parte de Dn. Luis Vignes, como apoderado de D. Feliz Valdez, en confirmacion á la concesion del terreno de Temecula q. obtuvo el segundo en catorce de Diciembre del año, y entreguese al *al* referido S'or Vignes el documento q. accredita su personeria reservandose en la secretaria el testimonio de las diligencias, practicadas mentiras tanto se tiene á la vista su expediente original, pa. entonces devalveo el primero al interesado.

Pio Pico, vocal mas antiguo de la honorable asamblea y gobernador del departamento de Californias, asi lo decretó, mandó y firmó, de q. doy fé.

PIO PICO.

[16 S. D. K.] Ex'mo Señor Gobernador:

Atentamente acompaño á V. E. el espediente que se practicá para obtener del superior gobierno la concesion del terreno de Temecula, con el fin de que se digne V. E. llevarlo al conocimiento de ex'ma asamblea departamental, para su aprovacion segun se refiere en el mismo titulo. Por tanto, á V. E. suplico se sirva dispensar el uso del papel por falta de sellado correspondiente.

Angeles, Abril 28, de 1845.

JN. LUIS VIGNES.

ANGELES, *Abril* 28, *de* 1845.

Como lo piede el solicitante llevese al conocemiento de la honorable asamblea, pr. los efectos q. haya lugar.

PICO.

ANGELES, *Abril* 28, *de* 1845.

Dado cuenta su sesion de hoy con esta instancia y espediente á q. se refiere y se acompaño pasó á la comision de terrenos valdios.

PIO PICO, *Presid'te.*
AGUSTIN OLVERA, *S'rio.*

Señor:

La comision de terrenos valdios deseosa de llenar el objeto de su encargo de la manera mas conforme á las leyes, ha ecsaminado con detenimiento el espediente y titulo relativo al parage Temecula consedido pr. el S'r Gra'l D'n Manuel Micheltorena, en fabor del s'or comandante de battallon, D. Feliz Valdez, en 14 de O'bre, del año pasado, y aunque es verdad se hallan corredos todos los, tramités de estilo pa. estas consendans, la comision se encuentrá con un tropiezo q. no le es facil venier sin ocurrir antes á V. E., á hacerlo presente, como lo verifica, y es el de que Temecula fue concedida al S'or Valdez, antes dicho, y a hara representa el S'or D. Luis Vignes, pediendo la aprobacion de esta honorable asamblea, en la citada instancia, sin justificar el d'ro q. tenga pa. ello; en tal virtud la comision pone a la deliberacion de V. E. la seguiente proposecion:

Devuelvase al que represente esta solicitud y espediente adjunto, pa. q. manifieste el d'ro q. tenga al sitio de Temecula q. refiere.

Angeles, Abril 30, de 1845.

NARCISO BOTELLO,
YGNACIO DEL VALLE.

ANGELES, *Abril* 30, *de* 1845.

En sesion de esta dia se aprobó por la honorable asamblea la proposicion del dictamen que antecede acordando se ponga el espediente en manos del ex'mo s'r gob'r, para los fines conseguientes.

PIO PICO,
AGUSTIN OLVERA, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such having in my office, and under my charge and custody, a portion of the archives of the former Spanish and Mexican territory of department of Upper California, do hereby certify that the eighteen preceding and hereunto annexed pages of tracing paper, numbered from one to eighteen inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this sixth day of November, A. D. 1851.

SAM'L D. KING,
Surveyor Gen'l Cal'a.

Filed in office, Sept. 13th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

"*B.*"—*Translation of Espediente.*

The place known by the name of Temecula, which is solicited in the present instance, is entirely vacant and may be granted to the applicant; this I can say upon the subject in obedience to the preceding decree.

San Diego, Sept. 30th, 1844.

JUAN MA. MARRON.

To his Excellency the Gobernor:

Now that Ortega and Stokes have desisted from their application for the land called Temecula, there only remains the application of Sr. Valdez; and from the favorable reports which are seen in this espediente, it appears that the place is vacant and in a condition to be granted; but as it belongs to the mission of San Luis Rey, and the departmental assembly has made a decree upon this subject, it is for your excellency to determine what may be proper.

MANUEL JIMENO.

Monterey, Oct. 18, 1834.

MONTEREY, *Nov.* 13, 1844.

Let the sec'y of the office state the estimated value of this property and real estate.

MICHELTORENO.

To his Excellency the Governor:

In order that there may be no error in the valuation of the property and land of Temecula, it would be well if your exc'y thinks proper to name two experts, one on the part of Sr. Valdez, and the other on the part of the mission, to give their opinion after seeing said property; and when this is done the espediente may be returned, through the judge of the city of Los Angeles, in order that your excel'cy may determine upon what is right.

Date as above.

MANUEL JIMENO.

Date as above. Let it be done.

MICHELTORENO.

To his Excellency the Governor:

I, Feliz Valdez, commandant of batallon of the Mexican army, with the utmost respect represent, that having inquired of Dn. Joaquin Ortega, adm'r of the mission of San Luis Rey, whether the rancho of Temecula belonging to said mission was of any value to it or no, with a view of afterwards asking for it, the said Ortega replied that I could freely solicit it, promising moreover that one of his sons-in-law should prepare the proper diseño, and send it to me in order that I might make the application I desired, and to-day I am very sorry to see that in violation of good faith, the said Ortega has solicited that land for himself, taking advantage of the attention which I have been obliged to give to the discharge of my military duties, and my consequent inability to attend to my own affairs; but in view of what I have stated, and as a reward for my long service, as well as from regard to the rights and consideration due me according to the laws of colonization, I hope, if this rancho of Temecula can be granted, that your excellency will do what is just; wherefore I pray your excellency to grant my application, whereof I shall receive favor.

Monterey, Aug. 25th, 1844.

FELIS VALDEZ.

MONTEREY, *Aug. 25th*, 1844.

Let the espediente be attached in which Ortega and Stokes ask for this land, in order that in view of everything, and being informed as to what is determined by decree of this day, the governor may decide with justice.

MICHELTORENO.

The land called Temecula, which Dn. Felis Valdez, com'dte of a batallon in the army of the Mexican republic, solicits, is entirely vacant. This land is also solicited by Ortega and Stokes, who have first asked for it. This community, out of regard for the services of both, has thought proper to prefer them to any others, in the occupation of the said place. This I can report with all sincerity.

Mission of San Luis Rey, Sept. 26th, 1844.

F'R JOSE MARIA DE ZALVEADA.

To his Excellency the Governor: José Joaquin Ortega and Edward Stokes, residents of the municipality of San Diego, in this department, and Mexicans, the former by birth and the latter by naturalization, present ourselves before you in the best form, and as may be most efficient in law, and say, that it not being possible for us to subsist upon the very small quantity of land which has been heretofore donated to us, on account of the scarcity of water, and principally for the irrigation of the cultivable land necessary for the support of our families, we solicit from the administration of this government that it would grant to our minor children, Ant'o Ma. Ortega and Francisco Adolphe Stokes, six leagues of the land known as Temecula, belonging to the mission of San Luis Rey, and which is entirely vacant. It adjoins the rancho of San Jacinto, belonging to Dn. J. Antonio Estudillo, the rancho of Los Laguna, belonging to Dn. Julian Manrigues, and the tillable lands of the said mission, as shown by the map which we attach hereto for your information, praying that this our application, which we make from necessity, may be proceeded with as soon as possible. Wherefore we pray that you will think proper to grant this as it is asked, excusing the use of common paper, for want of sealed. We swear that we proceed in good faith, &c.

San Diego, July 18, 1844.

JOSE JOAQUIN ORTEGA,
EDWARD STOKES.

MONTEREY, *Aug't* 25, 1844.

Let the sect'y of the office of this government report, first obtaining the report of the rev'd ministre of the mission of San Gabriel, who received that of the mission of San Luis Rey, and the judge of San Diego, the latter being given because the adm'r of the last mentioned mission could not report; and attaching to the expediente, when it is returned to this government, the petition of Dn. Feliz Valdez, upon which a decree was made of this date.

MICHELTORENO.

As ordered by his excellency, let this, together with the documents which accompany it, be laid before the rev'd min'stre of San Luis Rey, and the judge of San Diego, in order that they may report upon the contents.

Same date.

MANU'L JIMENO.

The place called Temecula, solicited in the present instance by Ortega and Stokes, is entirely vacant and of no public benefit to this mission; they have both rendered to this community; the occupation of said land is ceded to them in preference to any other person, and in view of this report, it can be granted by your excellency to said Ortega and Stokes. This I can make known to your excellency with truth.

F'R JOSE DE ZALVADEA.

Mission of San Luis Rey, Sept. 26th, 1844.

The place now solicited is entirely vacant, and can be granted to the parties interested, who have moreover property sufficient to use it. This is what I can state in obedience to the preceding superior decree.

JUAN MA. MARRON.

San Diego, Sept. 30th, 1844.

To his Excellency the Governor: The citizen Joaquin Ortega, for himself and in the name of Dn. Edwardo Stokes, represents that we renounced the right which we might have under our preceding application to the place called Temecula, in order that Dn. Felis Valdez may occupy it should you think proper to give it to him.

JOSE JOAQUIN ORTEGA.

Monterey, Oct. 20, 1844.

The citizen Manuel Micheltorena, Brigadier General of the Mexican army, Adjutant of the Gen'l Staff, Governor, &c.

Whereas the commandant of Battallon, Dn. Felis Valdez, has asked for his own benefit and that of his family the place known by the name of Temecula, bounded on the north by the land of Estudillo, on the south by Pala, on the west by Santa Margarita, and on the east and southeast by the Agua Caliente; the necessary proceedings having been taken and inquiries made as prescribed by the laws and regulations, in the exercise of the powers which are conferred upon me in the name of the Mexican nation, I have thought proper to decree him the said land, declaring it his property by these presents, subject to the approval of the departmental assembly, and under the following conditions:

1st. He shall not have power to sell, alienate nor hypothecate it, nor to impose upon it any ground-rent, entail, pledge nor other charge.

2d. He may enclose it without injury to the crossings, roads and servitudes; may enjoy it freely and exclusively, appropriating it to such use or cultivation as may suit him, but within one year he shall build a house, and it shall be inhabited.

3d. When the property is confirmed to him, he shall solicit the proper judge to give him judicial possession in virtue of this decree, by whom the boundaries shall be marked, upon which he shall place, in addition to the landmarks, some fruit trees or forest trees of some utility.

4th. The land of which donation is made is six leagues, "de ganado mayor," a little more or less, as is explained in the proper diseño. The judge who gives possession shall have it measured in conformity to the ordinance, leaving the surplus which may remain to the nation for its uses.

If he should violate these conditions he shall lose his right to the land, and it shall be open to be denounced by another.

Wherefore, I order that these presents, serving for a title and being held firm and valid, be recorded in the proper book, and be delivered

to the party interested for his protection and other purposes. Given at Monterey, the 14th of December, 1844.

MAN'L MICHELTORENO.
MAN'L JIMENO, *S'rio.*

This title is recorded in the proper book, page 13, vuelta.

JIMENO.

To his Excellency the Governor:

I respectfully present to your excellency the espediente, prepared to obtain from the superior gov't a concession of the lands of Temecula, with a view that you will be pleased to bring it to the notice of the departmental assembly for its approval, as is required by the truth.

JN. L. VIGNE.

Angeles, April 28th, 1845.

According to the prayer of the petitioner, let this be laid before the assembly for its action.

PICO.

Angeles, April 28th, 1845.

This application, and the espediente to which it refers and which accompanies it, were presented in the assembly this day, and referred to the committee on vacant lands.

PIO PICO, *Pres't.*
AGUSTIN OLVERA, *Sec'y.*

The committee on vacant lands, desirous of fulfilling its duty in the manner most conformable to law, has examined minutely the espediente and title relating to the place called Temecula, granted by Gen'l Man'l Micheltorena to the comm'dt of batallion, Dn. Feliz Valdez, on the 14th of December last; and although all the proceedings are regular in making the concession, the committee has encountered a difficulty which it is not easy to overcome without applying to the assembly, which is, that Temecula was granted to S'r Valdez, and now Don Louis Vignes asks the approval of the assembly without showing his right to do so. Wherefore, the committee presents for deliberation the following proposition:

Let the application, with the espediente attached, be returned to him who presents it, in order that he may show the right which he may have to the rancho of Temecula referred to.

NARCISSO BOTELLO,
YGNACIO DEL VALLE.

Angeles, April 30, 1845.

ANGELES, *April 30th*, 1845.

In its session of to-day the assembly approved the foregoing proposition, ordering the espediente to be placed in the hands of the governor for further purposes.

PIO PICO, *Pres't.*
AUGUSTIN OLVERA, *Sec'y.*

To his Excellency the Governor:

I, the undersigned, in obedience to what is decreed by the assembly in its session of the 30th of last month, respectfully present to your excell'y the espediente which was returned to me, and the document which establishes my right to represent and solicit the approval of the grant of the land of Temecula; as soon as that hon. body can confirm it, I pray your excell'y to return it to me for my protection, and to receive this on common paper, &c.

Angeles, May 3, 1845. JN. L. VIGNES.

The committee on vacant lands has seen, and examined with the utmost care, the espediente relating to the lands of Temecula, granted to the comm'dt of batallion, Dn. Feliz Valdez, by title legally issued by the gov't of this depart'o, dated Dec'r 14 of last year; and also finds sufficiently legal the power under which Dn. Luis Vignes presents himself, asking the approval by the assembly of the grant of said land; from all which, the committee is persuaded that all the proceedings which appear have been taken in conformity to the laws on the subject, and were sufficient for the grant of said land to S'r Valdez, and therefore submits to the consideration of the hon. assembly the following proposition:

The concession made in favor of the citizen Feliz Valdez, of the place called Temecula, granted in full property by the gov't of this dep't, by a title legally issued the 14th December last, in entire conformity to what is provided in the law of the 18th of August, 1824, and article 5 of the regulations of the 21st of November, 1828, is approved.

Angeles, May 8, 1845.

YGNACIO DEL VALLE,
NARCISSO BOTELLO.

ANGELES, *May* 12, 1845.

In its session of to-day, the hon. assembly approved the foregoing proposed decree, ordering the espediente which was presented to be returned to his excellency the governor for further objects.

PIO PICO, *Presid't.*
AUGUSTIN OLVERA, *Sec'y.*

ANGELES, *May* 13*th*, 1845.

In view of the approval by the departmental assembly, bearing date on yesterday, let the evidence of it and of this decree be delivered to Don Luis Vignes, as attorney of Dn. Feliz Valdez, confirming the grant of the land called Temecula, which was granted to the latter, on the 14th of Dec. last; and let the document which proves his power be delivered to the said Vignes, retaining in the office a copy of the proceedings taken from his original espediente, which is to be returned to the party interested.

Pio Pico, señor vocal of the assembly, and gov. ad int. of the dept. of the Californias, thus decreed, ordered, and signed, to which I certify.

PIO PICO.

Filed in office, Sept. 13, 1852.
(Signed) GEO. FISHER, *Sec'y*.

Documentos de Temeculo, á favor de Dn. Luis Vignes.

Exhibit "M," annexed to the deposition of Ygo. del Valle.

Sello Segundo, Cuatro Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro, y mil ochocientos cuarenta cinco.

MICHELTORENO. PAPLO DE LA GUERRA.
[L. S.]

El ciudadano Man'l Micheltoreno, General de Brigada del Ejercita Mejicana, Ayundante General de la Plana Mayor del mismo, Gobernador, Comand'te G'ral é Inspector del Departamento de las Californias.

Por cuanto el comandante de batallon, Dn. Feliz Valdez, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Temecula, colindante al N. con el S'or Estudillo, al S. con Pala, al P. con Sta. Margarita, y al E. y S. E. con la Agua Caliente; practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, ha venido en concederle el terreno mencionada declarandole la propiedad de el por las presentes letras sugetandose á la aprobacion de la ex'ma asamblea departmental, y bajo las condiciones siguientes:

1a. No podrán venderlo, enagenarlo, ni hipotécarlo, imponer censo, vinculo, fianza, nó otro gravamen alguno.

2a. Podrá sercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode, peso dentro de un año habitara la casa que se halla alli construida.

3a. Cuando se le confirme la propiedad solicitará del juez respectivo que le de la posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondrá amas de sus mojoneras arboles frutales, ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de seis sitios de ganado mayor, poco mas ó menos segun esplica el diseño respectivo. El juez que diere la posecion lo hará medir conforme á ordenanza á que dando el sobrante que resulte á la nacion para los usos convenientes.

5a. Si contraveniere á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon de el en el libro, á que corresponda y se entregue al interesado para su resguardo y a demas fines.

Dado en Monterey, á catòrce de Diciembre, de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENO.
MAN'L JIMENO, *S'rio.*

Queda tomado rason de esta concesion en el libro respetivo á fojas 14.
JIMENO.

El la ciudad de Los Angeles, de la Alta California, á los quince dias del mes de Junio, de mil ochocientos cuarenta y seis, ante mi, Leonardo Cota, regidor de camo de este ylustre ayuntamiento, y finiciado de alcalde segundo constitutional, y por ante mes testigos de asistencia, con quienes ante por falta de escribano publico, comparecio Don Juan Manzo, de esto vecindad, y presentandose un poder del comandante Don Feliz Valdez, dijo: Que á nombre de su poderante, y de sus herederos subcesores, y de quien de ellos hubiese titulo voz y causa en cual esquiera manera, cede, endona y trespasa todo el derecho, gais y ampliciones que tiene su podero ante en el rancho de Temecula, constante de seis sitios de ganado mayor, poco mas ó menos segun esplica el titulo que agrega á este documento, sin exigir otra recompensa que la indignizacion de los gustos que eroga su poder dante los que han ascendido á la cantidad de mil pesos, y de los que se dedujeron unicamente tres cientos cincuenta que anticipo el s'or Vignes para paso de las fincas del espresado Temecula, y que pol lo tanto declara que su poder dante al hacerle la cesion ames tosa, y haber recibido los mil pesos que espresa esta escritura: Guarantiza que nos se haza vendido ese rancho enagenado ni empeñado, que esta libre de tribute Memoria, capellania vinculo, patronale fianza, y otro gravamen real, perpetuo, temporal, tacito y esperso, y como tal se lo cede con todas sus estradas salidas pastos, montes, arrevaderos, usos regalias, y servidumbres y todas las demas cosas que atenido, y tiene y le pertenece segun derecho, renunciando la ley nueve titulo primero partida quinta, y asi mismo declara que hace gracia, y donacion para mera perfecta é irrevocable, en sanidad con insinuacion, y demas firmegas legales, renuncia la ley das libra diez, titulo primero, que trata de los contratos de venta truequies cambios, ü otras en que hay tueron en mos ó menos de la mitad del justo precio por no teneo lugar en este caso, y desde hoy en adelante para siempre se desapodera su poder dante, y herederos del dominio' propiedad, titulo voz recurso, y cualesquera otro derecho que le competa al enunciado rancho, lo cede, renuncia, y traspasa, con las acciones reales, personales utiles, mistas directas, y ejecutivas en Don Luis Vignes, ó en quien la suya represente le confiere poder é irrevocable, con libre franca y general administracion para que del tome, y aprenda la real tonenera, y posecion que por derecho le compete, y para que no necesite tomarle se le entregua la

escritura, y titulo original los que devera protocalizar cuando le convenga, y por lo mismo nadie le inquietara ni movera pleito sobre su posecion goze y disfrute, y si se le inquietare o moviere se compromete el otorgante por si, y á nombre de su poder dante á dejar al referida S'or Vignes en quieta y pacifica posecion; y de no consiguiente se le entregara, la cantidad que ha desembalzado las mejoras que haya echo, y se le pajaran todos los daños perjuecios, y menos cabos que se le seguieran é irrogaran pues para todo lo cual se ha de poder ejecutar en virtud de esta escritura ó juramento del que la posea ó en quien de fiere su importe. Y á la firmeza, y total validacion de lo referido se obliga el S'or Manzo por si, y su poder dante y bienes habidos y por haber, y con ellos se somete al quiero, y jurisdiccion de los señores jueces que en este negocio puedan, y devan conocer para que lo compelan, y apremien por todo rigor de derecho, y via ejecutiva como por sentencia definitiva de juez competente pasada en autoridad de cosa juzgada, y que portal la reconoce, renunciando su propio fuero domicilio, y vecindad las leyes de su favor, y defensa con la general del derecho en forma en cuya testimonio asi lo otorgo, y firmo con migo, y los de asistencia que lo fueron Don Ignacio Coronel, y Don Mariano Roldan, presentes, y vecinos, doy fee. No hay papel sellado.

LEONARDO COTA,
JUAN MANZO.

Ass'a: YGO. CORONEL,
Ass'a: MAR'O N. ROLDAN.

Derechos siete pesos, cuatro reales.

Filed in office, Sept. 27th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Annexed to the Deposition of Yg'o del Valle.

Se a prueba la concesion hecha en favor del ciudadano Feliz Valdez, del parage nombrado Temecula, concedido en propiedad por el gobierno de este departamente, en titulo legalmente librado con fecha catorce de Diciembre, del año procsimo, anterior de entera, conformidad con lo prevenido en lo ley de 18 de Agosto, de 1824, y el articulo quinto del reglamento de veinte uno de Noviembre, de mil ochocientos veinte ocho.

Angeles, Mayo 12, de 1845.

En sesion de este dia se aprobó por la honorable asamblea departamental, la proposicion del dictamen antecedente mandando se de vuelva el expediente q'l se presente al ex'mo señor gobernador, para los fines conseguientes.

PIO PICO, *Presidente,*
AGUSTIN OLVERA, *Secretario.*

Angeles, Mayo 13, de 1845.

En vista de la aprobacion otorgado con fecha de ager por la ex'ma asamblea departamental. Librese testimonio de ella y de esta decreto

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á la parte de Dn. Luis Vignes, como a poderado de Dn. Feliz Valdez, en confirmacion á la concesion del terreno de Temecula, que obtuvo el segundo en catorce de Diciembre, del año procsimo pasado y entreguese al referido S'or Vignes, el documento que acredita su personeria reservando en la secretario, el testimonio de las diligencias practicadas mientras tanto se tiene á la vista su espediente original para entonces devolver el primer al interesado.

Pio Pico, vocal mas antiguo de la honorable asamblea y gobernador interim del departamental de Californias, asi lo decreto, mando y firmó, de que doy fée.

PIO PICO,
JUAN BANDINI, *Secretario*.

Concuerda á la letra con su original del cual hize sacar el presente testimonio para resguardo del interesado, en la ciudad de Los Angeles, capital del departamente, á 13 de Mayo, de 1845.

Siendo testigos los ciudadanos, Ygnacio del Valle, Francisco Lopez, de esta vecindad.

En testimonio de verdad. PIO PICO.

Temecula—Exhibit O.

Filed in office, Sept. 27th, 1852.
(Signed) GEO. FISHER, *Sec'y*.

Exhibit "O."

The concession made in favor of the citizen Felis Valdez, of the place called Temecula, granted by the government of this department, by a title legally issued, dated the 14th of December last, in entire conformity to what is provided by the law of the 18th of August, 1824, and the 5th article of the Regulation of the 21st of November, 1828, is approved.

Angeles, May 12, 1845.

In its session of this day, the hon. departmental assembly approved the preceding proposed decree, ordering the espediente, which was presented, to be returned to his excl'cy the governor, for further purposes.

PIO PICO, *Pres't*,
AUGUSTIN OLVERA, *Secretary*.

Angeles, May 13th, 1845.

In view of the approval of yesterday by the departmental assembly, let a copy thereof and of this decree be delivered to Dn. Luis Vignes, in confirmation of the concession of the land of Temecula, which the latter obtained on the 14th of December last, and delivered to the said Luis Vignes the paper, which shows his authority, retaining in the office a copy of all the proceedings taken from the original espediente, before returning it to the party.

Pio Pico, senior vocal of the hon. assembly, gov. ad int. of the department of the Californias, thus decreed, ordered and signed, to which I certify.

PIO PICO,
JUAN BANDINI, *Sec'y*.

A literal copy of the original, from which this was copied, for the protection of the party interested, in the city of Los Angeles, capital of the department, the 13th of May, 1845.

The citizens Ygnacio del Valle and Francisco Lopez being witnesses.

In testimony of the truth. PIO PICO.

Filed in office, Sept. 27, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Exhibit "P," annexed to the Deposition of Yg'o del Valle.

En el presidio de San Diego, á los trenta y un dia del mes de Mayo, del año de mil ochocientos cuarenta y cinco, ante mi, José R. Arguello, alcalde segundo constitutional de este referido puerto y su demarcacion. En virtud de la solicitud verbal echa por el C. Anto. Coronel, apodersado del S'or D'n Luis Valdez, en representacion del S'or Feliz Valdez y una orden del veinte y tres del presente del ex'mo s'or gobernador de este departamento, para efecto de poner en posecion juridica del parage de Temecula al S'or D'n Feliz Valdez, y en complim'to de lo es puesto y del titulo que presente con fecha del catorce de Diciembre del año de mil ochocientos cuarenta y cuatro; pare por mi y testigos de asistencia, al mencionada parage y pongare en segura posecion de el al espresado S'or Valdez.

Asi yo el juez q. suscribe, decreté, mandé y firmé, con los de mi asistencia segun derecho.

JOSÉ R. ARGUELLO.

Asistencia: JUAN MA. MARRON,
Asistencia: JANUARIO ABILA.

Estando en el parage de Temecula, á los tres dias del mes de Junio del mismo año, y en cumplimiento del anterior decreto á efecto de verificar las medida y posecion del ya mencionada parage dispuse nombrar dos oficiales cordeleros los que por no saber escribir se omiten sus nombres á los cuales les tomé juram'to respectivo, bajo el cual ofrecieron desempeñar fiel y legalmente su encargo previas las formalidades de ley lo que asiento por diligencias que autorize y firme, con los testigos de mi asistencia, segun derecho.

JOSE R. ARGUELLO.

Asistencia: JUAN MA. MARRON,
Asistencia: JANUARIO ABILA.

En el mismo dia, mes y año, estando en el parage ya indicado á efecto de verificar las medidas de posecion de D'n Feliz Valdez y con arreglo al titulo de este s'or prebio todos los requisitos de estilo y estando ante mi, los testigos de asistencia, y oficiales cordeleros, esé medir un cordel que tenia cien varas y á los estremos unos sancos de madera prebia observacion y calculo por mi disposicion parados en la esquina de la huerta del Indio Fran'co, á la parte del ó con el lindero de D'n Vicente

Moraga, quien estando presente espuso perteneciente una pedase del terreno que se media y ecsaminado el titulo que en el acto presente se obserbo, no pertenserle por cuyo motier se tiro el cordel rumbo N. y se medieron y contaron veinté mil quinienter varas que remataron en la falda de su sierrita de San Miguelito, lindero del S'or D'n José Ant'o Estudillo, donde se mando al interesado pusiere su mojonera de este punto se tiro el cordel rumbo E. y se midieron y contaran dos mil cincuenta varas, que remataron en la mojonera de D'n Julian Manrigues en el mismo serrito de San Miguelito, lindero del Espresado Estudillo; de este punto con direccion al rumbo N. E. se tiro el cordel por todo el lindero de D'n Julian Manrigues, y se midieron y contaron arriba de la sierra dondese marer por mojoneron un picacho de d'ra sierra de este sitio, se tiro el cordel rumbo O. y se midieron y contaron diez y siete mil cincuenta varas, que remataron su un morvo que esta del otro lado del camino real que sale de Temecula para San Luis y forma Cabegera del Potrero a la parte del E., de este lugar se tiro el cordel rumbo N. y se midieron y contaron cinco mil varas, y remataron en la punta de la misma cañada de este punto, con direccion al E. se midieron cuatro cientos varas, que remataron en el lindero del Indio Pablo Apis, que se mario por mojonera un picacho que esta arriba del espresado lindero, de equi se tiro el cordel rumbo N. por todo el lindero del Indio Pablo Apis el viego y fue dando buelta hasta donde comensamos las medidas y se contaron cinco mil varas, que remataron en la esquina donde se dio principio á las medidas; en cuyo lugar se le ordeno al interesado pusiese su correspondiente mojonera y se le dijo quedaba en segura y pacifica posecion pa. que disfrutara libre y francamente del enunciado parage, segun la concession de la superioridad dandose por concluida el acto que autorize y firmé, con los de mi asistencia, segun derecho.

JOSE R. ARGUELLO.

Asistencia: JUAN MA. MARRON,
Asistencia: JANUARIO ABILA.

Acto continuo en cumplim'to del superior decreto, para el nombramiento de dor peritos año, por la parte del S'or Feliz Valdez, y otro por la del S'or Dn. Joaquin Ortega, por parte de la Mision de S'n Luis Rey como administrador; afecto del avaluo de las fincas que se hallan en el sitio de Temecula, impuestas las partes presentaron; por la del primero Dn. Juan Warner, y del segundo Dn. Juan Ma. Marron, y exsaminando unicosamente dicha finca segun su bal saber, y entender conformes en su calificacion resulto el valor de tres cientos veinte, y cinco pesos lo que anoto por diligencia que autorize, y firmaron con migo, y los de asistencia, segun derecho.

JOSE R. ARGUELLO.

Perito: JUAN MA. MARRON,
Perito: JUAN WARNER.
Asistencia: EDUARDO STOKES,
Asistencia: JANUARIO ABILA.

San Diego, cinco de Junio, de mil ochocientos cuarenta y cinco. Estando concluidas estas diligencias protocoleuse en el archivo respectibo, y de sele testimonio á la parte par los usos que convengan.

Asi yo José R. Arguello, alcalde constitucional del pueblo de San Diego, y su demarcacion decreté, mandé y firme, con los de asistencia, segun derecho.

JOSE R. ARGUELLO.

Asistencia: JUAN MA. MARRON.
Asistencia: JANUARIO ABILA.

Rason.
En la fecha se libra el testimonió respectivó.

(Rubrica.)

Concuerda con su original á que me remito del cual esta fielm'te sacado, corregido y con frontado ni cuatro fojos de papel comun, por falta del sellado.

San Diego, Junio 5, de 1845.
De que doy feé. JOSE R. ARGUELLO.

Ass'a: JANUARIO ABILA.
Ass'a: JUAN MA. MARRON.

Filed in office, Sept. 27th, 1852.

GEO. FISHER, *Sec'y*.

Exhibit P.

In the Presidio of San Diego, on the 31st day of May, 1845, before me, Jose R. Arguello, 2o constitutional alcalde of said pueblo and district. In virtue of the verbal application made by the citizen Ant'o Coronel, attorney of Dn. Luis Vignes, representing Dn. Feliz Valdez, and of the order of the 23d of this month, made by his excellency the gov'r of this department, to put Dn. Feliz Valdez in judicial possession of the place called Temecula, in fulfilment of what is ordered and of the title presented to me, dated Dec. 14, 1844, let my assisting witnesses go with me to said place and deliver possession to said Valdez. Thus I, the judge, subscribed, decreed, ordained and certified, with my assisting witnesses, according to law.

JOSE R. ARGUELLO.

Ass'g: JUAN MA. MARRON,
Ass'g: JANUARIO ABILA.

Being at the place called Temecula, on the 3d of June, 1845, in fulfilment of the preceding decree, and for the verification of the measurements and possession of said place, I proceeded to name two chain-bearers, (not knowing how to write their names, are omitted,) who took the oath according to law, faithfully to discharge their duties, which I authorized and signed with my assisting witnesses.

JOSE R. ARGUELLO.

Ass'g: JUAN MA. MARRON,
Ass'g: JANUARIO ABILA.

On the same day, month and year, being at the place already named, for the purpose of verifying the measurements and possession of Dn. Feliz Valdez according to his title, all the requisites of the law being complied with, and the assisting witnesses and chain-bearers being present, I caused a cord to be measured nine hundred varas in length, and stakes of wood to be attached to its extremities; after observation and calculation, we began the survey at the corner of the garden of the Indian Francisco which adjoins on the west, the boundaries of Dn. Bicente Moraga, (he being present, and insisting that he owned a piece of land we were measuring, but after looking at the title, admitting that it was not his,)and measured north 25,500 varas to the brow of the little hill of San Miguelito, the boundary of Dn. José An'to Estudillo, where I ordered the party to put a landmark; thence E. 2,500 varas, to the landmark of Dn. Julian Manriguez, in the same hill of San Miguelito, the boundary of the said Estudillo; thence to the northeast along the whole length of the boundary of said Manriguez, 2,500 varas, which reached above the Sierra, where the peak of said mountain was taken as a landmark; thence west 17,500 varas to a round hill on the other side of the said road from Temecula to San Luis, and which forms the upper end of the Potrero on the east; thence northward 5,000 varas to the point of the same cañada; thence eastward 400 varas, to the boundary of the Indian Pablo Apis, where a peak which is above said boundary was taken as a landmark; thence northward the whole length of the boundary of the Indian Pablo Apis, and returning towards the garden, where we commenced the measurement 5,000 varas, to the place of beginning, at which place the party interested was told to put his landmark; and that he remained in safe and peaceable possession, freely to enjoy the said land according to his grant; this act being declared finished, authorized, and signed by my assisting witnesses, according to law.

JOSE R. ARGUELLO.

Ass'g: JUAN MA. MARRON,
Ass'g: JANUARIO ABILA.

Further in fulfilment of the superior decree for the appointment of two appraisers, one on the part of Dn. Feliz Valdez, and the other on the part of the mission of San Luis Rey, as adm'r, for the purpose of appraising the improvements on the rancho of Temecula, the parties appeared—for the former, Dn. Juan Warner, and for the latter, Dn. Juan Ma. Marron—who examined said property minutely, fixed its value at three hundred and twenty-five dollars, for which was noted down. Authorized and signed by me and my assis'g witnesses, according to law.

JOSE R. ARGUELLO.

App'r: JUAN MA. MARRON,
App'r: JUAN WARNER.
Ass'g: EDWARD STOKES,
Ass'g: JANUARIO ABILA.

San Diego, June 5, 1845.

[REC. CXXXIV, D. T., 1856.]—4

These proceedings being concluded, let them be registered in the proper office, and the copy be given to the party interested for his use.

Thus I, José R. Arguello, 2nd constitutional alcalde of the pueblo and district of San Diego, ordered and signed with assisting witnesses, according to law.

JOSE R. ARGUELLO.

Ass'g: JAUN MA. MARRON.
Ass'g: JANUARIO ABILA.

Registered.
On the same day I delivered the copy certified.
Compared with the original, &c.
San Diego, June 5th, 1845.

JOSE R. ARGUELLO.

Ass'g: JUAN MA. MARRON.
Ass'g: JANUARIO ABILA.

Filed in office, Sept. 27, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Exhibit N. annexed to the deposition of Y'go del Valle.

S'or Dn. Juan L. Vignes:

PALOS VERDES, *Marzo 25, de* 1845.

MI ESTIMADO A'MO: Con esta f'ha le mando á V. una carta poder por el S'or Dn. Juan Manzo, este am'o le doy las instrucciones pa. q. si V. le conviene el rancho, lo ajurte en los plazos q. V. y el combengan, cuyo importe en dinero ó licores lo entregará V. á d'ho S'or Manzo, exsegrandole un recibo, por el cual este va cubierto, y este me satisfajer en Mazatlan, in Mejico.

Consubese V. bueno, y mande á su aff'o am'o, Q. B. S. M.

FELIZ VALDEZ.

S'or DN. JN. LUIS VIGNES,
En Los Angeles.

Feliz Valdez—Marzo 25, de 1845.—Por la Rancho de Temucula.

Filed in office, Sept. 27th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Exhibit "N."—Translation.

PLAS VERDES, *March 25th,* 1845.

To Juan L. Vignes:

MY ESTEEMED FRIEND: I send you to-day a power of attorney for Dn. Juan Manzo, and give him instructions, that if you consent about the rancho, he shall arrange it on the terms upon which you and he may agree. Deliver to Don Juan Manzo the price in money or liquors,

taking a receipt, by which you will be protected. He will arrange it with me in Mazatlan, in Mexico.

Wishing you health, and remaining your affectionate friend,

FELIS VALDEZ.

Filed in office, Sept. 27, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Opinion.

LUIS VIGNES
vs.
THE UNITED STATES.

"Temecula"—Six square Leagues.

This claim is based on a grant made to one Felis Valdez by Governor Micheltoreno, bearing date December 14th, A. D. 1844; the papers on file show that said grant was, on the 12th day of May, A. D. 1845, duly confirmed by the departmental assembly, and that on the 3d day of June, A. D. 1845, judicial possession of the premises in question was formally given to the attorney of the grantee.

The petitioner has also placed on file a deed of conveyance, purporting to have been executed by Juan Manzo, who represents himself as an attorney of Felis Valdez. This deed of conveyance is made to the present petitioner, and is the instrument through which he deduces title from Felis Valdez, the original grantee. The handwriting of the respective persons attached to the foregoing several documents is proved to be genuine.

The power of attorney, by virtue of which the said deed was executed, has not been produced. It is, however, recited in the deed, that the power under which Juan Manzo acted was produced and shown to the magistrate; besides, the petitioner has produced a letter from Feliz Valdez, in which the authority of Manzo to act for him is fully recognised. The deed may, therefore, be considered as having been executed by competent authority, and as conveying to the petitioner whatever interest Feliz Valdez had in the premises therein described at the date of its execution.

The next inquiry which arises in the investigation of the case, is in regard to the performance of the conditions annexed to the grant by the original grantee, Feliz Valdez.

The depositions which have been taken by the petitioner and placed on file as evidence in the cause, together with the history of the grant, as contained in the traced copy of espediente, show that at the time the grant was made, the land which it embraced was claimed by the mission of San Luis Rey, and that the grantee was required to pay the appraised value of the buildings which the mission had erected on the land. It is further shown, that the buildings were valued at three hundred and twenty-five dollars. The buildings here referred to consisted principally of an adobe house and some other trifling improvements.

It is proved by the deposition of A. F. Coronel, that, in addition to the mission buildings, which were on the place at the date of the grant,

the present petitioner, Don Luis Vignes, afterwards built an adobe house upon the rancho, and had a corral there. This house, the witness states, was occupied by the mayordomo of Don Luis Vignes, and he thinks the house was built the same year that judicial possession was given. The house which the witness Coronel states was built by Luis Vignes, could not have been built the same year; that possession was given to Valdez, because he did not purchase the premises from Valdez until the following year, 1846.

There is no proof that either the original grantee or the petitioner ever lived upon the place known by the name of Temecula. The second condition annexed to the grant expressly provides, that "within one year he shall occupy the house now built on it." The requirements of this condition goes far to confirm the views heretofore expressed in other cases which have been decided by this commission; first, in regard to the condition of building a house within a year, we have decided that where it appeared that a house had been built and was on the land at the date of the grant, the condition was unnecessary, and the party could not be required to build an additional house, so far as having a house upon the land was essential; that requirement of the law was fully and substantially complied with. Secondly, the language of the condition annexed to the grant now under consideration sustains another view of the former law, heretofore expressed by this commission, viz: that it devolved upon the party to show an actual inhabitancy of the land. We see in the case before us that the condition does not require a house to be built, for the reason that one was already built, but it does require that he, meaning the grantee, shall, within one year, occupy the house then on the land.

If the grantee had complied with this condition, the policy of the colonization law would then have been fully satisfied and carried out; there would have been a house upon the land, and that house would have been occupied by the grantee. There is no proof that the grantee even complied with this condition; indeed it is evident that he acted, by attorney, not only in procuring the judicial possession, but in every other matter connected with it. The judicial possession was given to his attorney, and when he sold the premises to the petitioner, he conveyed by attorney. All the evidence in the case goes to show that he lived at a distance from the land, and most likely never even saw it, much less occupy it. This grant contains a condition against alienation. A majority of this commission have heretofore decided that this condition was authorized by the regulations of 1828, and that according to those regulations, the party, before he could be relieved from the restraint which the condition imposed upon him, was bound to show that he had complied with the other conditions of his grant, otherwise his grantee would take nothing by his deed of conveyance.

In the case before us, the petitioner has failed to show a compliance with the essential conditions of his grant, viz., the inhabitancy of the house. We are, therefore, of the opinion, that the original grantee sold the premises to the petitioner in violation of a material condition

of his grant; and that his grantee took nothing by such sale and conveyance.

In illustration of the foregoing views, it may be further stated, that it is apparent, from the letter of Valdez to Vignes, written as early as the month of March, 1845, in which he discloses the fact, that a negotiation had already commenced between himself and Vignes for the sale of this rancho, and this, it will be remembered, was some three months before his grant had been approved, and before Vignes, as his attorney, had received judicial possession of the premises.

From this, I think it is plain that he never intended to comply with the condition of his grant, but obtained the grant for purposes of speculation alone.

That he did make a very handsome speculation is evident from the consideration as expressed in his deed to Vignes, which is one thousand dollars, deducting the amount paid by Vignes for the mission, improvements which amounted to something over three hundred dollars. This deed bears date the 15th day of June, 1846. Whether Vignes was the actual owner of the premises before that time is not shown; but, taking the date of the deed as the true time when the ownership passed from Valdez to Vignes, the material condition of his grant, and upon the performance of which his right to sell depended, was at that time wholly unperformed.

The subsequent acts of the petitioner are not material, particularly, as more than a year had expired from the date of the grant to the time the sale was made; but it may be stated, that there is no proof, that even the petitioner, after he had purchased the property, resided upon it. The party in this case occupies the position of one seeking a specific performance of his contract, without being able to show that he had complied with the conditions which the contract had imposed on him.

If this application had been made to the government of Mexico, would that government have felt itself so bound, that in good conscience an obligation would have rested upon it to complete the claimant's title? I think not. The party, instead of showing a performance of his part of the contract, shows a palpable violation of its letter and spirit. He did nothing which he was required to do; but he did do that which he was positively enjoined from doing.

Where then is the moral obligation to be found, that it is said was binding upon the former government to complete the title? It is sought for in vain in the acts of the party himself.

The consideration which the government had a right to demand for the public domain was never paid. The policy which the government had in view was in that instance disregarded, and, so far as the acts of the party were concerned, the land remained in precisely the same condition it was before the grant was made. It was no part of the policy of the colonization law of 1824, to make grants of the public domain for the mere purpose of speculation, without any corresponding benefit to the government, and to prevent the very object which the

facts of the case show the grantee had in view, the article prohibiting the party from alienating the land until he had proved a compliance with the terms of his agreement, was no doubt inserted in the regulations of 1828. For these reasons, we are of opinion that the claim in this case should be rejected.

Filed in office, March 14th, 1854.

(Signed) GEO. FISHER, *Sec'y*.

Dissenting Opinion of Commissioner Thompson.

LUIS VIGNES
vs.
THE UNITED STATES. } Temecula.—Case No. 342.

When the opinion of the majority of the commission rejecting this claim was delivered, I expressed verbally my non-concurrence therein for the reasons contained in former opinions, delivered by me in cases involving some of the same questions.

As the one now under consideration presents a point which did not directly arise in the others, I avail myself of the occasion to give my views on that question in connection with those already referred to.

I dissent, therefore, from the opinion of the majority as to their first objection to the validity of this claim, to wit, the non-performance of the conditions of the grant.

1st. From the reasons set forth in my opinion on the same point, delivered in case No. 327—Anastacio Carillo, for the place called "Punta de la Concepcion."

2nd. Because the grant in this case, having every sanction which the Mexican government could confer, vests in the grantee a perfect title to the land granted; and although it was encumbered with conditions, still as their performance was to happen subsequent to the vesting of the estate, the want of performance could only be taken advantage of by a proceeding instituted by the government for that especial purpose. See Glen et al. vs. The United States, 13 Howard, pp. 259, 258. In that case, although the court decided the grant was an imperfect one, and did not vest the fee in the grantee, and that the conditions were precedent and not subsequent, consequently the principle, as stated above, did not apply. Yet its correctness, as contended for by the counsel for the applicants, is distinctly admitted and affirmed.

It follows, then, that the grant was not ipso facto void by the failure of the grantee to fulfil its conditions, but was only voidable and liable to be declared forfeited, by a particular proceeding instituted by competent authority, to ascertain the fact of the failure to perform the conditions and declare the forfeiture.

That proceeding, according to the Mexican law, was by denouncement, and is referred to in the grant itself, where it declares, that in such case the grantee shall forfeit his right to the land, and it may be denounced by another. Until it was had, therefore, the rights of the grantee in the premises were subsisting and continuous.

In the case of Hancock vs. McKinley, 7th Texas Reports, where this whole question is ably discussed, the decision of the court is in entire accordance with these views. After defining what was essential to constitute a valid Mexican grant, so as to invest the grantee with the legal title to the estate, they decide that the rights vested under it could not be divested by the simple failure of the grantee to fulfil its conditions, but that a subsequent proceeding by competent authority was necessary for that purpose and in order to enforce the forfeiture; that the State of Texas had succeeded to all the rights of the State of Texas and Cahuila, under the Mexican government, and, without inquiring into the right of the State under the Constitution to pass a law for the enforcement of such a forfeiture, they hold, that until some such proceeding was provided for by law the courts had no power to do it, and the rights of the grantee remain unimpaired.

It is not pretended that any such proceeding was had in the present case before change of government, and I know of no authority by which it can be done now, or could have been done at any period since that event took place. The proceeding by denouncement is entirely unknown, both to the common law and to our statute law; and the practice of issuing grants, with conditions subsequent upon which it is founded, is opposed to our whole system of land laws.

Admitting that the United States succeeded to all the rights of Mexico in the ceded territory, she took them subject to the provisions of the treaty of Guadalupe Hidalgo and of the laws of nations, and it will scarcely be contended that Congress has any authority to pass a law for the forfeiture of private property, the right to which had vested and was subsisting at the date of the treaty. The 9th article of that instrument declares, that Mexicans who shall have elected to become citizens of the United States "shall be maintained and protected in the free enjoyment of their liberty and property." In the case of Smith vs. The United States, 10th Peters, p. 339, the Supreme Court define the word property and its legal import, as used in the treaty of 1803, for the cession of Louisiana, from which the provision in the 9th article above quoted is copied verbatim as follows: "It was never doubted by this Court that property of every description in Louisiana was protected by the law of nations, the terms of the treaty, and the acts of Congress; nor that in the term property was comprehended every species of title, inchoate or perfect, embracing those rights which lie in contracts—those which are executing as well as those which are executed. See also to the same effect 4th Peters, 512, and 9th Peters, 117.

Such a law, then, according to the terms of the treaty and the principles above quoted, would, in my opinion, be a palpable violation of the national faith, and in contravention of the Constitution of the United States. The decision of the majority of the board in this case, according to my view of the question, is, in effect, to decree such a forfeiture—a result I am satisfied not contemplated or authorized by the law of Congress creating the commission, or which, if authorized by it, could never receive the sanction of the Supreme Court.

I also dissent from the opinion of the majority of the board in their second objection to the validity of the claim, to wit, the violation of the first condition of the grant prohibiting the grantee from alienating the land granted:

1st. For the reasons contained in my opinion filed in case No. 8, Robert F. Stockton, for the place called "Potrero de Santa Clara."

2d. Because I considered it opposed to the laws, usages, and customs of the Mexican government in California, which are prescribed for our governance by the act of 3d of March, 1851.

How far the Mexican government in California were authorized by law to insert such a condition in the grants made by them has already been considered in the case last referred to.

In relation to the usages and customs of the country on this point, an examination of a great number of cases submitted to the board shows that sales were frequently made by the grantees, notwithstanding the prohibition contained in the grant. In some cases the permission of the governor appears to have been first obtained, but in others, and perhaps the most numerous, they were made without his consent, and without regard to the prohibitory clause; and I have as yet met with but a single case in which the legality of a sale of land, and the validity of the rights acquired under it, were called in question before the Mexican authorities in California, and the decision in that case fully sustains the legality of the act, and its binding effect upon the parties.

The original recorded espediente of the proceedings in that case is filed among the papers in claim No. 333, now pending before the board for its decision, and presents the following state of facts: It appears that on the 17th of August, 1839, the then governor of California granted to Thomas Benn a tract of land called "San Felipe y los Animas," of the extent of two square leagues, in the usual form. On the 7th day of October, 1842, the grantee, Benn, conveyed the land to Francisco Garcia and Carlos Moreno. On the 1st of August, 1844, Francisco Garcia presented his petition to the governor, Micheltoreno, setting forth the fact of the said sale and conveyance, and alleging that at the time of executing the same Benn was not the owner of the land, because in the three years which had elapsed he neither built on nor cultivated it, and that he had no right to sell it; he therefore prayed to be released from the payment of the balance of the purchase-money remaining unpaid. Moreover, denouncing the land in due form as vacant on the part of Benn, and soliciting a re-grant of it to himself. This petition was referred by the governor to the secretary of State, who on the same day makes the following report:

"To his Excellency the Governor:"

I find no objection to allowing the person interested to occupy as his own the land named San Felipe, by the right which Don Thomas Benn conveyed to him; but with respect to the release from the payment of the amount in which the resident Francisco Garcia purchased, I think it belongs to the superior tribunal to decide, as according was executed in relation to the sale of the land to which I refer.

Your excellency's superior disposition will be most proper. Date the same.

(Signed) MAN'L JIMENO.

Upon this report the governor issued the following decree:

MONTEREY, *August* 1*st*, 1844.

In entire conformity to the foregoing report I declare the place to be the property of him who represents, and with respect to the second part upon the payment of that contracted for before the magistrate, the title not having the conditions of not being able to sell or alienate, &c., let it be sent to the supreme tribunal for its decision.

(Signed) MICHELTORENA.

The proceedings before the supreme tribunal to which was referred the question in relation to the payment of the balance of the purchase-money, was as follows:

Superior Tribunal of Justice:

Let the magistrate of the pueblo of San José report whether, from the 7th (17th) of August, 1839, on which the land known by the name of "Cañada de las Animas y San Felepe" was granted to Don Tomas Bon, he had it without fences, house, plantings or cultivation, until the 7th of October, 1842, on which day he alienated it by sale to Don Francisco Garcia.

MONTEREY, *August* 2, 1844.

On account of the sickness of his honor the president.

(Signed) JOSE MANUEL CASTENARES.

In compliance with the superior decree which precedes, I have the honor to say, that the land granted to Don Tomas Bonn has never had any improvement, whether house, corral, fence or planting, but in the month of December, of last year, Don Francisco Garcia made a corral, which still exists, with which I think I give the due compliance.

Pueblo de San José, Aug't 8, 1844.

(Signed) ANT. MO. PICO.

The following is the decision of the court upon the question submitted:

MONTEREY, *September* 12, 1844.

As the contract which was made between Francisco Garcia and Tomas Bon appears to have been forfeited by the delivery, which the former made to the latter, of a part of the amount for which he purchased, and by the occupation of the land by him, and Bon not having been sued on the sale which he made, the person representing cannot be relieved from the payment of that which he owes to Bon; for although it may be true that he did not occupy the land in three years, and by that, according to the title, had lost his right, it is also true that both the contracting parties having consented to the delivery and receipt, with-

out any denouncer of the land intervening until it was made, the vendor made use of that which he had acquired with a just title, and in this view Garcia is bound to pay Bon.

Pass this to the magistrate of San José, that he may notify both parties, returning all the papers to him who represents.

(Signed) MALARIN.

This decision of the highest judicial tribunal in California, delivered by its president, a gentleman of acknowledged ability and eminence as a jurist, is, in my view of the settled principles of law, conclusive, and obligatory on this commission in adjudicating the question it involves.

I have already had occasion in a former opinion to refer to the rule adopted and laid down by the supreme court in construing the laws of particular States or foreign nations, but the doctrine is so clearly and forcibly presented in the case of Elmendorff vs. Taylor, 10th Wheaton, p. 159, that I am induced to quote that portion of Judge Marshall's opinion which relates to it. He says: This court has uniformly professed a disposition, in cases depending on the laws of a particular State, to adopt the construction which the courts of the State have given to those laws.

This course is founded upon the principle supposed to be universally recognised, that the judicial department of any government where such a department exists is the appropriate organ for construing the legislative acts of that government.

Thus, no court in the universe which professed to be governed by principle, would, we presume, undertake to say, the courts of Great Britain or France, or any other nation, had misunderstood their own statutes, and thererefore erect itself into a tribunal which should correct such mistakes; we receive the construction given by the courts of the nation as the true sense of the law, and feel ourselves no more at liberty to depart from that construction, than to depart from the words of the statute." Again, in 2 Peters, p. 84, Judge Story, in delivering the opinon of the court, says: If the question had been settled by any judicial decision in the State where the land lies, we should, upon the uniform principles adopted by this court, recognise that decision as a part of the local law." The application of these principles to the questions presented in this case must, I think, be apparent.

A question arises as to the legal effect and consequence of a failure to comply with the conditions of a grant made under the authority of the Mexican laws of colonization. This question is referred to the highest judicial tribunal for adjudication, and the decision of the court distinctly affirms the right of property in the grantee; notwithstanding his failure to comply with the conditions of the grant, by recognising his power to exercise over the land granted, the highest attribute of ownership, that of alienating to another for a valuable consideration. This decision is a remarkable one, and establishes two propositions.

1st. That the contract having been perfected by the payment of a part of the purchase-money by the vendee, and the occupation by him

of the premises, and no suit having been brought to set it aside, the latter had no right to go behind it and inquire into the right of the vendor to sell, or order to be released from the payment of the balance due; and—

2nd. That, although the vendor might have forfeited his right, by reason of his failure within three years to occupy the land; yet, as no denouncement had been made prior to the execution of the contract by which that forfeiture could have been perfected and enforced, the right of property which had vested in him under the grant was still subsisting and valid, and he could, in the language of the decree, dispose of that which he had acquired with a just title.

If, then, I am right as to the true meaning and effect of the decision, it fully sustains the two positions I have been attempting to establish: 1st, That, although, by reason of the failure of the grantee to fulfil the conditions of the grant, the right of property he had acquired under it became liable to forfeiture; yet, that forfeiture did not become absolute, so as to divest the estate, until the proper proceeding, by denouncement, was had, in order to complete and enforce it; and, 2nd, That the grantee had full power to sell or dispose of the land, notwithstanding such failure, at any time prior to a denouncement of the premises.

Applying then the rule of construction as laid down by the Supreme Court of the United States, and cited above, it furnishes a precedent which this commission is bound to respect, and to which, in my opinion, its decisions should be made to conform.

I am aware, that in relation to the second proposition, as to the power of the grantee to sell, I may be met by the objection, that in the case referred to as stated in the decree of government, the grant contained a prohibition against alienation, and therefore the decision would not apply to a case where that condition was inserted; but I do not consider that the argument is in any degree affected by it. I understand the position of the majority to be, that the condition prohibiting the alienation of the land granted, until the conditions of occupation have been performed, is required by the regulations of the 21st of November, 1828; and, that it is to be decreed from the 11th and 12th sections of that ordinance. They have also repeatedly held, that where a condition was imposed by the law, it was especially binding, whether inserted in the grant or not.

If then this condition was required by the law, it was the duty of the governor to insert it in all the grants which he issued; there is nothing that I have been able to discover, which gave him the arbitrary discretion to insert it or not at his pleasure. If it is not imposed by the law, then its insertion by the governor was a violation of the law, and therefore void. In either respect of the case, the objection can have no bearing on the point under discussion. If the views of the majority are right, then the decision would apply as well to grants which contained the condition, as those which do not; if they are wrong, then the condition is void, and entitled to no right or consideration.

The 11th and 12th articles of the ordinance refer, in my opinion, exclusively to grants to "empresariors," or contractors, who, in consideration of the grant, undertook to introduce a certain number of families and colonize them upon the lands. The 10th section, which immediately precedes them, the language of those articles, and the whole context, prove clearly to my mind that this operation was strictly limited to that class of grants.

In these cases the conditions are precedent, and the right of property did not vest in the contractor, until he had complied with the terms of his contract, the grant itself being null and void until he has performed them; though a power is reserved to the governor "to revalidate it," in proportion to the part which he may have fulfilled; that is to say, in proportion to the number of families he may have introduced. Cases of this description come clearly within the principle decided in the case of Glen et al. vs. The United States, hereinbefore cited. But grants to individuals and families, where the title has been perfected by every sanction required by the law, so as to vest the estate in the grantee prior to the period fixed for the performance of the conditions, are manifestly grants with conditions subsequent, resting upon totally different grounds and subject to entirely different rules of law in their consideration. Those rules are plainly indicated in the authorities cited in the preceding portion of this opinion.

The grant in the case now under consideration is clearly of the latter description. It was regularly issued to the grantee by the governor, after the proper inquiries and investigations had been made. It was signed by the governor and countersigned by the secretary, and recorded in the proper book. It was presented to the departmental assembly for its approval, duly approved by that body, and the certificate of the same, or final document in confirmation of the grant, delivered to the agent or attorney of the grantee.

Judicial possession of the land was given in due form of law by the proper officer, and the boundaries marked out and established. Thus every requisite which the law required on the part of the government or any of the functionaries was fully complied with; and this, according to every authority which I have been able to find on the question, was all that was necessary to constitute a perfect title and invest the grantee with the legal estate to the premises. I have already shown that the title so vested could not be divested without a subsequent legal proceeding, authorized by competent authority for that purpose. No such proceeding was ever had in this case prior to the transfer of the country to the United States, and according to the terms of the treaty, the relative rights of the parties could not be changed by any act occurring after that event took place. They must therefore stand, and be adjudicated with reference to their condition at the date of the treaty, or whatever period may be fixed as the time when the jurisdiction of Mexico in the ceded territory ceased, and that of the United States commenced.

But admitting, for the sake of argument, that the United States had the right to prescribe a mode by which the forfeiture incurred by the grantee, by reason of his failure to fulfil the conditions of his grant, could be conferred, I have been unable to find any law which confers the authority to use it. It is certainly not to be found in any act of Congress, by which the duties and powers of this board are defined.

Upon this hypothesis, then, until Congress has created or conferred the power upon some tribunal to enforce the forfeiture, the rights of the grantee under the grant must remain unimpaired.

I am therefore of the opinion, that at the time the treaty of Gaudeloupe Hidalgo took effect, the claimant in this case had a valid, subsisting right of property in the land which he claims; which right, by the terms of the treaty and the laws of nations, the United States are bound to respect, and which, under the provisions of the law of the 3d of March, 1851, it is the duty of this commission to confirm.

Filed in office, March 14, 1854.

(Signed) GEO. FISHER, *Sec'y.*

LUIS VIGNES
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner is not valid, and his application for a confirmation of the same is therefore denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, March 14, 1854.

(Signed) GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board, that the land, hereby adjudicated, is situated in the southern district of California, it is hereby ordered, that two transcripts of the proceedings, and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy-seven pages, numbered from 1 to 77, both inclusive, to contain a true, correct, and full transcript of the record

of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 342 on the docket of the said board, wherein Luis Vignes is the claimant, against the United States, for the place known by the name of "Temecula."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirtieth day of October, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing pages numbered from 1 to , both inclusive, contain a full, true, and correct copy of transcript No. 342, filed in this office, wherein Luis Vignes is appellee, and the United States appellant, for "Temecula."

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California,
[SEAL.] this 17th day of March, A. D. 1856, and of the Independence of the United States of America the eightieth.

C. E. CARR, *Clerk,*
By O. MORGAN, *Dep'y.*

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES COUNTY.

LUIS VIGNES, appellant,
ads.
THE UNITED STATES, appellees. } Docket No. 119.
Transcript No. 342.

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of California, the following proceedings were had, to wit: A duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Luis Vignes is the claimant against the United States, for the place named "Temecula," was received and filed and docketed with No. 119, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES,

In same case, the notice of appeal was filed.

(Vide page 3.)

LOS ANGELES, *Dec.* 17*th*, 1854.

In same case, the petition for review was filed.

(Vide page 3.)

LOS ANGELES, *April* 18*th*, 1855.

In the same , the deposition of Luis Arenas was filed.

(Vide page 5.)

LOS ANGELES, *D're* 27*th*, 1854.

In same case, the answer of U. S. attorney was filed.

(Vide page 9.)

LOS ANGELES,

In same case, the opinion of the court was delivered, and the following decree entered.

(Vide page .)

LOS ANGELES, *Oct.* 18*th*, 1855.

In same case, order for appeal to Supreme Court was filed.

(Vide page .)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, 17*th January*, 1855.

LUIS VIGNES
vs. } 342.
THE UNITED STATES.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of October, 1854, the appeal in the district court of the United States for the district of California will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney General.

Filed.

(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

LUIS VIGNES, app't,
vs. } Case No. 119.—"Temecula."
THE UNITED STATES, app'lees.

To the Hon'ble Isaac S. K. Ogier, Judge of the U. States District Court for the southern district of California:

The petition of Luis Vignes, the above appellant, respectfully showeth, that on the 14th day of December, 1844, Manuel Michelto-

rena, then governor of the department of the Californias, by virtue of authority in him vested by law, executed and delivered to Felis Valdez a deed of grant of the date aforesaid, whereby he granted to him all that certain tract of land called "Temecula," situate in the present county of San Diego, in the southern district of California, more particularly described in a petition filed by the said appellant, on the 13th day of September, 1852, before the United States land commissioners to ascertain and settle the private land claims in the State of California, and the papers and proceedings thereupon had, which are hereby specially referred to. That after the said 14th day of September, 1844, the said grantee entered upon and took possession of the granted premises; and afterwards, to wit, on the 15th day of June, 1846, by a deed executed and delivered for a valuable consideration therein mentioned, sold and conveyed the above granted premises to your petitioner.

Your petitioner further states, that on the 13th day of September, 1852, he filed his petition claiming the said premises, before the aforesaid land commissioners, while sitting as a board, together with documentary evidence and the testimony of witnesses; and that afterwards, to wit, on the 14th day of March, 1854, the said board proceeded to decide upon the validity of said claim, and rejected the same; that afterwards, to wit, on the 8th day of November, 1854, an appeal was taken, the said board having filed in the office of the clerk of your honorable court a certified copy of their proceedings and decision, and of the papers and evidence upon which said decision was founded; and that afterwards, to wit, on the 14th day of Dec., 1854, your petitioner filed in the office of the said clerk a notice of his intention to prosecute the said appeal.

Wherefore, your petitioner prays that the decree of the said commissioners may be reversed, and his said title may be decreed to be valid, and for general relief and costs; and as in duty bound, etc.

(Signed) J. L. BRENT,
Att'y for Appellant.

(Signed) Per J. R. SCOTT, *Counsel.*

Filed Dec. 14th, 1854.
(Signed) C. E. CARR, *Cl'k.*

In the U. S. Dist. Court for the south. dist. of California.

LUIS VIGNES
vs.
THE UNITED STATES.

And now comes Luis Vignes, plaintiff in the above cause, and moves for an order to take further testimony therein.

(Signed) A. P. CRITTENDEN,
By J. LANCASTER BRENT,
Att'y for plaintiff.

Filed Dec. 18th, 1854.
(Signed) C. E. CARR, *Cl'k.*

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In the District Court of the United States for the southern district of California.

LUIS VIGNES, claimant,
vs.
THE UNITED STATES. } No. 119.

Deposition of Luis Arenas, a witness on the part of plaintiff in the above entitled cause, taken this 18th day of April, 1855, before me, Charles E. Carr, U. S. commissioner, Los Angeles, California. (Wm. G. Dryden, interpreter, sworn.)

Luis Arenas, a witness in behalf of the claimant in the above entitled cause, being duly sworn, deposes and says as follows:

1st question. What is your name, age, and residence?

Answer. My name is Luis Arenas; my age is fifty-nine; I live in San Buenaventura.

2d question. Are you acquainted with the rancho Temecula, claimed in this cause? If yea, state all you know in regard to the occupation, cultivation and boundaries of the same.

Answer. I am accquainted with the rancho "Temecula;" have known it by the name of "Temecula" for about twenty years; it belongs to Luis Vignes; it was first petitioned for by one Dn. Felis Valdez, in the year 1844 or 1845. After he obtained the grant of the land, he went up and stayed a few days to look after it; while he was there he stayed in the house on the place, there being no other any where near the land. Soon afterwards Luis Vignes put a man on the place by the name of Ramirez as a mayordomo, to take care of the vineyard upon it, and the cattle, &c. Valdez had first put Vignes in possession of the land, in what capacity I do not know; it was only a short time after Valdez was there, when Ramirez took possession of the place; Ramirez lived in the old house which had been built by the mission on the land; Ramirez had a small vineyard there which he cultivated, and he also planted corn and wheat, and had some cultivation going on; I said he was farming it, but do not know how much was in cultivation; the garden and fields were all fenced; he had also cattle and horses on the place; I don't know how much land the rancho contained. Feliz Valdez was a colonel in the Mexican army; he went to Mexico just before the war, and witness has not heard of him since. I was living on the rancho "Paula," right adjoining this ranch at the time, and had every means of knowing.

Cross-examined by the U. S. Att'y.

1st question. What do you mean by the place "Temecula," which you have known for the last twenty years?

Answer. A portion of land formerly occupied by the mission of San Luis Rey, which land was afterwards abandoned by the mission, some few Indians of the said mission remaining thereon when it was petitioned for by Valdez. I do not know whether there were any Indians on it when Valdez took possession, but I know there had been

Indians there previously. I do not remember the last time I was on the rancho of "Temecula;" there were but one or two families of Indians on the place when Valdez came to see it; there was a house there of the mission in ruins; there was also a small vineyard; I think an Indian was taking care of it; the vineyard was from three to five hundred paces distant from the house; I don't know what the condition of the ranch was with regard to its occupation by Indians when Valdez went there; I was not there when Valdez came to look at the ranch; I was here in the pueblo of Los Angeles with my family, when Valdez went to look at the ranch; I know that Valdez went to see the rancho, because I was here in the city of Los Angeles when Valdez left for that purpose; I have never at any time seen Valdez upon the rancho; I never saw Luis Vignes on the rancho; it was Ramirez I always saw there; while I was there Valdez did not build a house on the rancho; the last time I was there, Valdez had not built a house on the rancho of Temecula; I don't know what he has done since; I never knew whether Valdez ever placed any cattle on the rancho; I understood there were cattle on the rancho, and that they belonged to Dn. Luis Vignes; I do not know that the land was ever cultivated by Valdez, but it was cultivated by Luis Vignes; I know positively that the cattle on the rancho belonged to Luis Vignes, though I did not know his particular brand; Vignes had a considerable number of cattle on the ranch; but I don't remember how many. These cattle were put on the ranch before Col. Fremont came to this part of California with the American troops. I can't tell the extent of the cultivation of the ranch by Luis Vignes; the land cultivated by Luis Vignes was about to the extent of the plaza of Los Angeles. The persons who cultivated the above mentioned land were servants of Ramirez, working for Dn. Luis Vignes.

2d question. When were you last on the rancho of Temecula?

Answer. I do not recollect.

3d question. Do you recollect the year?

Answer. I think—I am not positive—it was in the year 1846.

4th question. Have you ever lived on the adjoining rancho of Paula with your family?

Answer. I never lived on the rancho of Paula with my family.

5th question. Did you ever live there at all?

Answer. I never have lived there.

6th question. How did it happen that Juan Ramirez went on the ranch of Temecula?

Answer. Don Luis Vignes sent him there to take charge of all his business.

7th question. How do you know that Luis Vignes sent Ramirez to the ranch to take charge of his business?

Answer. Because I saw Ramirez on the ranch, and knew that Vignes was in the habit of sending him wherever he wanted him.

8th question. How long did Ramirez live on the rancho?

Answer. I do not know; I left here for the North in 1848.

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9th question. When did Valdez go to Mexico?

Answer. I do not know.

10th question. Did he go with Gov'r Micheltorena when he left California?

Answer. I don't know. There was a revolution by the natives of the country against Micheltorena, when he, Micheltorena, was driven off.

11th question. Do you know whether Valdez went to Mexico before or after this revolution?

Answer. He either went before the revolution, or with Micheltorena, or afterwards, I don't recollect which, as some officers remained behind.

12th. Did Valdez remain in California after Micheltorena left the country?

Answer. I do not remember.

Re-examination in chief.

Question. Do you know the rancho of Paula; if yea, were you ever on the same?

Answer. I know the said ranch, and have been but twice on it; first, when I went to look at it; and second, when judicial possession was given me.

Question. Do you know the places called Pala, and Aqua Caliente, and Sta. Margarita; if so, how long have you known them by these names?

Answer. Yes; I have known them ever since I have been in this country, and have known them by these names for twenty years.

(Signed) LUIS ARENAS.

Sworn to and subscribed before me, this 18th day of April, A. D. 1855.

(Signed) C. E. CARR, *U. S. Com'r.*

Stipulation attached to the foregoing Deposition of Luis Arenas.

In the U. S. Dist. Court for the southern district of California.

LUIS VIGNES vs. THE UNITED STATES. } No. 119.

It is hereby stipulated between the respective parties, that the foregoing deposition of Luis Arenas, on the part of Luis Vignes, taken on this day, before C. E. Carr, esq., U. S. commissioner, may be read and considered on the trial and decision of this cause, in the same manner and with the same effect as if given in open court in the trial hereof.

(Signed) P. ORD,
Dist. Att'y U. S. S. D. C.

(Signed) J. LANCASTER BRENT,
Att'y for Pl'ff.

Filed, April 18th, 1855.

(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

LUIS VIGNES, claimant,
vs.
THE UNITED STATES. } No. 342.

The answer of Pacificus Ord, of Monterey county, Attorney of the United States for the southern district of California, in behalf of the United States, to the petition of Luis Vignes, claiming the Rancho of Temecula, containing six square leagues of land, situate in the county of San Diego, and praying this hon. court to review the decision of the Board of Land Commissioners to ascertain and settle the private land claims in the State of California, and to decide on the validity of his said claim.

The said attorney, answering in behalf of the United States, denies all and singular, each and every allegation in the said petition contained; and the said attorney, further answering, specially denies that said Vignes is the owner of the rancho known as Temecula, containing six square leagues of land, situate in the county of San Diego, in this district; that he is the owner of the same by virtue of a deed of conveyance from Felis Valdez, the original grantee of said land, who executed said conveyance by Juan Manzo, his attorney in fact; that said Felis Valdez obtained a grant of said land from Manuel Micheltorena, governor of the Californias, bearing date December the 14th, A. D. 1844, which said grant was duly confirmed by the departmental assembly, on the 12th day of May, A. D. 1845; that judicial possession of said premises was formally given to said Felis Valdez, on the 3d day of June, A. D. 1845, all of which appears by documentary proofs on file before the said board of land commissioners; that the said grantee complied with all the conditions of said grant; that he built a house and occupied said lands by himself and his majordomo; and that he and this grantee had extensive cultivation thereon, from the date of said grant until the conquest of the country by the Americans; and that he knows of no other claimant to said lands, as alleged in said petition. And the said attorney, further answering in behalf of the United States, and in compliance with the laws and statutes in such case made and provided, represents and alleges, that the said claim of said Luis Vignes for said land is invalid, on the following grounds, to wit:

1st. That the said Luis Vignes shows no valid title to the said land claimed by him as aforesaid, and it is denied that he has any.

2d. That the said alleged grant of Governor Micheltorena was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast; and there is no evidence by claimant that the supreme general executive power of Mexico previously approved of the colonization of the lands of California within ten leagues of the sea-coast; and it is denied that such

previous consent of said supreme general executive power of Mexico in such case was ever had.

3d. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by the missions of California, and particularly with valuable houses and other improvements thereon, by the mission of San Luis Rey.

4th. That the alleged grant of land to the said Feliz Valdez was illegal and void, because the said Valdez was an officer in the Mexican army at the time of said grant; that he was a commandant of batallion at the time of said grant, and as such officer, at said time of said grant, he had not the capacity to acquire by grant from said Governor Micheltorena the said tract of land as alleged; that said Governor Micheltorena had no lawful authority to make said grant of said land to said Valdez while an officer of the Mexican army; that the said grant was made upon a money consideration, to wit, about $325; and that such a grant or sale of land by said Governor Micheltorena was unlawful.

5th. That said alleged grant of Governor Micheltorena is not upon the class of stamped paper required by law; that the description of the said land in said grant is vague, indefinite and uncertain; that the map of the said land, shown by claimant, is vague, indefinite and uncertain; that the said grant is not in exact conformity to, and has not the conditions required by, the colonization law of Mexico, of the 18th of August, A. D. 1824, and the regulations made in pursuance thereof of the 21st of November, A. D. 1828.

6th. That there is no definitive title shown by said claimant to said Valdez, as required by law; and it is denied that a definitive title for said land was ever had by said Valdez.

7th. That the alleged act of judicial possession, of the date of the 3d of June, A. D. 1845, was unlawful, for the reason that said Valdez had not, at that time, a definitive title for said tract of land claimed as aforesaid; that it was unlawful, for the reason that it was not given personally to said Feliz Valdez, but to one Antonio Coronel, pretending to be the attorney of Luis Vignes, who pretended to be the attorney or representative of said Valdez; that there is no evidence that said Coronel was the lawful attorney of Luis Vignes, and that Luis Vignes was the lawful attorney or representative of Feliz Valdez; and it is denied that the said Coronel and said Vignes were such lawful attorneys or representatives of said Valdez: that the said alleged judicial possession, and the measurement or survey of said land by José E. Arguello, pretending to be second constitutional alcalde of San Diego, was not made according to the said alleged grant and map belonging to the original espediente, nor according to the ordinance or law; that said José E. Arguello had no lawful authority to perform said alleged acts of possession and measurement of said land.

8. That the said tract of land called Temecula, alleged to have been granted to said Feliz Valdez, was, at the time of such alleged grant, in the actual occupation of, and cultivation by, numerous Indians, then or formerly belonging to the said mission of San Luis Rey.

9. That the said tract of land was, at the time of said alleged grant, and is now, irrigable land; that the extent of irrigable land *land* within the alleged boundaries of said claim, greatly exceeded, at the date of said grant, one square league of five thousand varas of irrigable land, and the said grant of said land by said governor Micheltorena was therefore unlawful.

10. That the second condition of said alleged grant, requiring, that within one year, he (the said Valdez) "shall occupy the house now on it," was violated by him and never performed, and there is no proof of the performance by said alleged grantee of any of the conditions of the said alleged grant.

11. That there is no evidence that the said Feliz Valdez built a house on the said tract of land within a year from the date of the grant, and that he occupied it, and it is denied that he ever so built and occupied a house on said land within said time.

12. That the alleged sale on the 15th of June, A. D. 1846, of the said tract of land by Juan Manzo, pretending to be the lawful agent or attorney of the said Feliz Valdez, is in violation of the 1st condition of the said alleged grant, which expressly prohibits the alienation of said tract of land called Temecula, and therefore, the said alleged grantee and the said claimant have lost their right or title to the said land, if they ever had any.

13. That the said alleged sale of said land of said date to said claimant, by said Juan Manzo, is without legal form and effect, and is void, for the reason that there is no evidence that the said Manzo, who pretended to sell said land in virtue of a power or authority from said Valdez, had lawful power as attorney or agent of said Valdez to make such sale; and it is denied that said Manzo had such lawful power to make said sale of said land as alleged; that said act of sale does not describe the land pretended to have been sold to claimant by metes and bounds, so that it can be identified.

14. That there is no evidence that Leonardo Cota, before whom the said act of sale purports to have been made, was, at the time of the date of said act of sale, regidor señor and 2d alcalde of Los Angeles; and it is denied that he was at said time register and second alcalde of Los Angeles.

15. That the said Feliz Valdez, alleged grantee of said land, left the Territory of Upper California, for Mexico, in or about the spring of the year A. D. 1845, in company with the said Gov. Micheltorena, and has never since that time returned to California. That he left no family here, and that he then virtually abandoned said tract of land called Temecula, if he ever occupied it.

16. That at the date of the said alleged sale of said land, (June 15th, A. D. 1846,) and its purchase by the present claimant, he was a foreigner by birth; that he was a Frenchman by birth; that he was not a naturalized citizen of Mexico, and had not, therefore, at the time of the date of the *date of the* said alleged sale and purchase by him of said land, the capacity to acquire and hold the said land in full ownership in the manner and form as alleged.

17. That the said alleged grant of land by said governor to said Luis Valdez was in fact made, not for the personal use and benefit of the said Valdez, but was made to him for purposes of speculation, and for the use and benefit of said Luis Vignes, who had not the capacity to acquire and hold lands in full ownership in California.

Wherefore the said attorney, respondent in behalf of the United States, prays this hon. court to decide and decree the said claim of said Luis Vignes invalid, and dismiss his said petition with costs and general relief.

(Signed) P. ORD,
Atty. of the U. States for the southern district of California.

Filed Dec. 27, 1854.
(Signed) C. E. CARR, *Cl'k.*

LUIS VIGNE, appellant,
vs.
THE UNITED STATES, appellee. } No. 119—For "Temecula."

District Court of the United States for the southern district of California.

This cause coming on to be heard at a stated term of said court, on appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the proceedings and decision, and papers and evidence on which said decision was founded, and on evidence given in this court; and it appearing to the court that said transcript has been duly filed, according to law, and counsel for the respective parties having been heard, it is hereby ordered, adjudged and decreed, that the decision of the said commissioners be in all things reversed and annulled; and it is further ordered, adjudged and decreed, that the claim of the appellant be confirmed to the place known by the name of Temecula, being the land described in the grant from Governor Micheltorena to Felis Valdez, under date 14th December, 1844, copies of which grant are on file in the records of this case, to the extent of six leagues, (de ganado mayor,) provided said quantity be contained within the boundaries mentioned in said grant, and if there be less quantity contained within said bounds, then such less quantity is hereby ordered, adjudged and decreed to the said appellant.

M. HALL McALLISTER,
Judge Dis't Court U. S. for the District of California.

Notice of Appeal.

In the U. States District Court for the southern district of California.
Special Term, Sept. 1855, Los Angeles.

LUIS VIGNES, appellee,
vs.
THE UNITED STATES, appellant. } No. 119.—(Transcript No. 342.)

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court that an appeal be